IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

W.P.Nos.7663 and 7834 of 1999

WRIT PETITION No.7663 of 1999

Between:

1. K. Savitri Devi, W/o K.R. Rao, aged
about 48 years, Occ: Technical Assistant
Grade I, FCI, Resident of 165, Santoshnagar,
Hyderabad.
2. S. Raghunadha Raju, S/o Venkata Raju,
about 51 years, Occ: Assistant Grade I (Accounts),
FCI, Resident of LIG 66, Dharmareddy Colony,
Phase I, Kukatpally, Hyderabad.
3. N.B. Giridhar Gopal, S/o N.B. Balakrishna Naidu,
Aged about 53 years, Occ: Deputy Manager, Accounts,
FCI, R/o 8-3-168/E/2/31, Rajeevnagar, Hyderabad.
4. Mohammed Salahuddin, S/o Mohammed,
aged about 49 years, Occ: Asst.Grade I,
FCI, Resident of Syamalanagar, Khammam.
5. D. Venkat Swamy, S/o D. Hanumanthu,

aged about 49 years, Occ: Technical Assistant

Grade I, FCI, Miryalguda, R/o Plot No.50,

Telecom nagar, Gachi Bowli, Hyderabad.

6. Muneer Hussain, S/o Mohammed Ghouse,

aged about 46 years, Occ: Technical Assistant

Grade-I, FCI, Guntur, Resident of Parameshwari

Towers, Laxmipuram, IV Line, Guntur.

7.P.V. Subba Rao, S/o P. Koteswara Rao,

aged about 48 years, Occ: Technical asst.

Grade-I, F.C.I., Miryalaguda, R/o H.No.1-9-312/A/6,

MCH No.373, I floor, Dayananda Nagar, Vidyanagar,

Hyderabad-44.

8. P. Raghavendra Prasad, S/o P. Ranga Rao,

Aged about 46 years, Occ: Asst. Gr II, FCI,

Gudivada, R/o 9-11-115, Kothapeta, Guntur-1.

9. R. Narasimha Moorthy, S/o Seetharamaiah,

Aged about 46 years, Occ: Technical Asst. Gr-I,

F.C.I., Vijayawada, R/o 2-14-160, Balakuteer

Road, Syamalanagar, Guntur-6.

..... PETITIONERS

AND

1. Food Corporation of India, rep. by its

Managing Director, 16-20, Barakhamba Road,

New Delhi.

2. The Senior Regional Manager, Food Corporation

of India, HAKA Bhavan, Opp: Pubic Gardens,

Hyderabad.

3. The Union of India, rep. by its Secretary,

Department of Food, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order, direction or writ, more particularly one in the nature of a Writ of Mandamus, declaring that portion of the amendment carried out to Appendix-I of the Food Corporation of India (Staff) Regulations, 1971 relating to the post of Joint Manager/Deputy Manager in the General Administrative Cadre, in particular, with regard to the prescription of age and qualifications for direct recruitment through notification No.78, dated 14th October,1998, as bad in law and consequently, direct the respondents to consider the case of the petitioners for direct recruitment to the post of Joint Manager and Deputy Manager.

Counsel for the Petitioner: Mr. NUTY RAM MOHAN RAO

Counsel for the Respondents: Mr. MEHERCHAND NOORI

WRIT PETITION No.7834 of 1999

Between:

1. Allaram Kristu Dass, S/o A. Ramayya,

Aged about 45 years, Occ: Assistant

Grade-I (DEPO), FCI, Resident of

Flat No.311, Tirumala Apartment, Yousufguda,

Hyderabad.

2. D. Rameshwar, S/o D. Ganga Ram, aged

about 46 years, Occ: Technical Assistant Grade-I,

FCI, District Office, Karimngar.

..... PETITIONERS

AND

1. Food Corporation of India, rep. by its

Managing Director, 16-20, Barakhamba Road,

New Delhi.

2. The Senior Regional Manager, Food Corporation

of India, HAKA Bhavan, Opp: Pubic Gardens,

Hyderabad.

3. The Union of India, rep. by its Secretary,

Department of Food, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order, direction or writ, more particularly one in the nature of a Writ of Mandamus, declaring that portion of the amendment carried out to Appendix-I of the Food Corporation of India (Staff) Regulations, 1971 relating to the post of Joint Manager/Deputy Manager in the General Administrative Cadre, in particular, with regard to the prescription of age and qualifications for direct recruitment through notification No.78, dated 14th October,1998, as bad in law and consequently, direct the respondents to consider the case of the petitioners for direct recruitment to the post of Joint Manager and Deputy Manager.

Counsel for the Petitioner: Mr. NUTY RAM MOHAN RAO

Counsel for the Respondents : Mr. MEHERCHAND NOORI

The Court made the following :

COMMON ORDER:

W.P.No.7663 of 1999

This Writ Petition is filed seeking a Mandamus declaring the amendment carried out to the Appendix I of the Food Corporation of India (Staff) Regulations,1971 relating to the post of Joint Manager/Deputy Manager in the General Administrative cadre, in particular, with regard to the prescription of age and qualifications for direct recruitment through Notification No.78, dated 14-10-1998 as arbitrary and illegal and consequently to direct the respondents to consider the case

of the petitioners for direct recruitment to the post of Joint Manager/Deputy Manager.

Petitioner No.1 is working as Technical Assistant Grade I, petitioner No.2 as Assistant Grade I (Accounts), petitioner No.3 as Deputy Manager (Accounts), petitioner No.4 as Assistant Grade I (Depot), petitioner Nos.5 to 7 as Technical Assistants Grade I and petitioner No.8 as Assistant Grade-II in the respondent-Food Corporation of India. It is their case that Food Corporation of India was created in accordance with the provisions contained in the Food Corporation of India Act,1964. As per Section 45 of the said Act, the Central Government framed Food Corporation of India (Staff) Regulations 1971 and amended it from time to time suit the exigencies. The method and manner of recruitment for various posts in the services of Food Corporation of India are specified in the Staff Regulations. Regulation No.3 categorized various posts of service. The service conditions relating to categories I to IV have been spelt out in detail in Appendix I to the Staff Regulations. A perusal of Appendix I would disclose that the posts dealing with general administration are included in Part II of the said Appendix. For the posts of Joint Manager/Deputy Manager, two sources of recruitment are provided – (i) 33 1/3% by direct recruitment and (ii) 66 2/3% by promotion. However, the Food Corporation of India never implemented these Regulations and it has not made direct recruitment, which was essentially obligatory to be taken up at regular intervals. The age limit for the posts of Joint Manager and Deputy Manager was recognized as 40 and 35 years respectively. The qualifications prescribed for direct recruitment is I Class Degree in Arts, Science, Commerce, Agriculture or at least II Class Degree in Arts, Science, Commerce and Agriculture with Post Graduate Degree or Diploma of two years duration in Business Management. It is also essential that a person must have 7 years of experience in Executive position of which at least 3 years should be in the Middle Management position insofar as Joint Manager (General Administration) is concerned; while 5 years experience in food and allied fields is specified as essential qualification when it comes to the post Deputy Manager. The prescribed age limit is relaxed in case of departmental employees and other reserved categories. It is stated by the petitioners that the Food Corporation of India has strangely adopted a policy to breach its Staff Regulations. It had issued an advertisement in 1979 for direct recruitment. The said advertisement was cancelled. Thereafter, three advertisements were issued, but they were also cancelled. Thus, between 1979 and 1999 in a span of 20 years, only one direct recruitment of 17

Deputy Managers had taken place in the year 1987. It is highly improper for the Food Corporation of India to have attempted to reduce the age for direct recruitment for the posts of Deputy Managers from 40 years to 35 years. There is no justification whatsoever behind such reduction. There seems to be a clever and deliberate attempt to scuttle the chances of a segment from being recruited as Joint Manager/Deputy Manager in General Administration wing of the Food Corporation of India by way of amendments to the Staff Regulations of these posts. Apart from this, there is an amendment to other qualifications required in filling up the posts by direct recruitment. Therefore, this Writ Petition.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioners and seeking to dismiss the Writ Petition.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the material made available on record.

At the outset, I am of the opinion that the cause in the Writ Petition itself does not survive, since the petitioners were allowed to appear for interview for the said posts, in view of an interim order in W.P.M.P.No.9552 of 1999, but could not come up for selection. They have not secured the minimum marks required for considering their cases for appointment to the said posts. Only 13 persons were selected and the last person among 13 got 139 marks in the written test, whereas the highest marks obtained among the writ petitioners was only 124; therefore, the question of appointing the petitioners does not arise. Apart from this, the learned counsel for the petitioners also raised another question of law stating that when the vacancies have arisen and the respondents have not filled them up for a long time, the amended qualifications requiring to appear for direct recruitment cannot be given retrospective operation insofar as filling up of the vacancies that arose before the amendment. Learned counsel for the respondents placed before this Court, the qualifications required to be considered for direct recruitment to the respective posts. There is no amendment to the Regulations regarding the qualifications except as to age limit. Therefore, the contention of the learned counsel that there is amendment as to qualification and the same cannot be operated retrospectively also does not arise.

Writ Petition No.7834 of 1999

It is the case of the petitioners that they are working as Assistant Grade II and Technical Assistant Grade II respectively in the Food Corporation of India at Hyderabad and Karimnagar respectively. They have raised the same issues as were raised in Writ Petition No.7663 of 1999.

In this case too, petitioner No.1, though applied for the said posts, could not come up in the zone of consideration of the candidates, who are being called for interview in the ratio of 3:1 i.e. 3 candidates for one advertised post. He did not secure the required marks in the written test to consider him in 3:1 ratio. In case of the 2nd petitioner, he obtained 151 marks in the written test, but could not be selected for the reason that he could not satisfy the other requirements, such as, 7 years experience in executive post and 2 years experience in Middle Management post. Though the last person selected in the category of Joint Manager (general) secured 144 marks and 2nd petitioner secured little more marks i.e. 151 marks, he could not be selected for the reason that he had no experience of 2 years in the Middle Management cadre.

For all the above reasons, the Writ Petitions are liable to be dismissed. Accordingly, they are dismissed. No costs.

08-07-2005

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, Food Corporation of India,

16-20, Barakhamba Road, New Delhi.

2. The Senior Regional Manager, Food Corporation

of India, HAKA Bhavan, Opp: Pubic Gardens,

Hyderabad.

3. The Secretary,

Department of Food, Union of India, New Delhi.

4. 2 CD copies.